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Central Administrative Tribunal
Principal Bench

O.A. No. 308 of 2002

New Delhi, dated this the 6th February, 2002

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Hd. Const. Ishwar Singh No. 428/C,
S/o late Shri Dilawar Singh,
R/o D-36, Budh Vihar Phase-II,
Delhi-110041. .. Applicant

(By Advocate: Ms. Jasvinder Kaur)

Versus

1. Government of NCT of Delhi through
Commissioner of Police,
Police Head Quarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
2. Addl. Commissioner of Police,
Northern Range,
Police Head Quarters,
I.P. Estate, New Delhi. .. Respondents

ORDER (Oral)

Ashok Agarwal.J

In respect of an incident which had taken place on the night intervening 13-14th of May, 1996 Disciplinary Proceedings were initiated against the applicant Head Constable Ishwar Singh along with his co-delinquent Assistant Sub-Inspector of Police Vishwanath on the following summary of allegations.


"It is alleged against both of you, i.e. ASI Vishwanath No. 2623/D and Head Constable Ishwar Singh No. 428/C that you, while posted at Police Station/Kamla Market, intercepted one Shri Mohinder Singh R/o 42/B-4, Railway Colony, Punjabi Bagh, New Delhi at 3-15 A.M. on the night between 13/14.5.96, who had reached New Delhi Railway Station from Kanpur by 'Neelanchal Express' and was on his way to Thomson Road for taking his scooter. He was carrying Rs.1,80,000/- in a bag which he had collected from Lucknow in connection

A.G.A.

with his business dealings. Both of you searched the bag of Shri Mohinder Singh containing cash. On seeing huge amount, you brought him to Police Station/Kamla Market in a three wheeler and demanded Rs.25,000/- from Shri Mohinder Singh for his release failing which threatened to implicate him in a false case. Finding no option, the demanded amount of Rs.25,000/- was paid to both of you and then you allowed him to go immediate thereafter. Later on, Shri Mohinder Singh filed a complaining to ACP/Kamla Market and a sum of Rs.15,000/- was recovered from you ASI Vishwanath No.2623/D and Rs.10,000/- from Head Constable Ishwar Singh No. 428/C which was returned to the complainant."

2. The Enquiry Officer by his report dated 1.7.1997 has found the allegations levelled against the applicant not proved.

3. The Disciplinary Authority by his order dated 29.7.1997 (Annexure A-8) has disagreed with the findings of the E.O. and has found the charges levelled against the applicant proved and has proceeded to impose the penalty of forfeiture of four ^{service} years / ^{ate} entailing proportion-of reduction in ^{his} ~~these~~ pay with immediate effect; during the period of reduction ^{he} ~~delinquent~~ will not earn increments and after expiry of period this will have the effect of postponing the future increments. The aforesaid order of the Disciplinary Authority was carried by the applicant in an appeal. The Appellate Authority by a show cause notice dated 20.2.98 proposed enhancement of punishment imposed upon applicant. Applicant submitted his representation against the same. The



Appellate Authority by his order of 21.9.98 (Annexure A-1) has dismissed the appeal of the applicant. ^{and} ~~as~~ has enhanced the penalty of reduction in rank from Head Const. to Const. ~~being not maintainable.~~ The aforesaid penalty ^{for a period of three years.} imposed by the Disciplinary Authority and the Appellate Authority ~~in the circumstances~~ are sought to be impugned by the applicant in the present O.A.

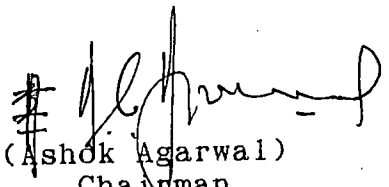
4. We have heard Ms. Jasvinder Kaur, Learned Counsel for applicant. We have also perused the relevant records.


5. As far as the Disciplinary Authority is concerned he is within his rights to disagree with the findings of the E.O. and give his own findings of guilt against applicant. His findings of guilt are based primarily on the evidence of the complaint. The aforesaid findings of guilt finds favour with the Appellate Authority. It is impermissible to reappreciate the evidence and give findings contrary to the ones that ~~was~~ found favour with the Disciplinary Authority and the Appellate Authority. As far as the measure of punishment is concerned we have no hesitation in holding that the penalty imposed upon applicant is on the side of leniency, as the only punishment which would be adequate on charges such as the one which have been found proved in the instant case is dismissal from service.

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6. Be that at it may we do not find that the applicant can successfully assail the punishment which has been imposed upon him in the present case.

7. The present O.A. is dismissed in limine.


(Ashok Agarwal)
Chairman


(S.R. Adige)
Vice Chairman (A)

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